as you would do for a primary specimen. The result of the primary specimen is reconfirmed if the split specimen meets these criteria.

§ 40.183 What information do laboratories report to MROs regarding split specimen results?

(a) As the laboratory responsible for testing the split specimen, you must report split specimen test results by checking the ''Reconfirmed'' box or the ''Failed to Reconfirm'' box (Step 5(b)) on Copy 1 of the CCF.

(b) If you check the ''Failed to Reconfirm'' box, one of the following statements must be included (as appropriate) on the ''Reason'' line (Step 5(b)):

(1) ''Drug(s)/Drug Metabolite(s) Not Detected.''

(2) ''Adulterant not found within criteria.''

(3) ''Specimen not consistent with substitution criteria [specify creatinine, specific gravity, or both]''

(4) ''Specimen not available for testing.''

(c) As the laboratory certifying scientist, enter your name, sign, and date the CCF.

§ 40.185 Through what methods and to whom must a laboratory report split specimen results?

(a) As the laboratory testing the split specimen, you must report laboratory results directly, and only, to the MRO at his or her place of business. You must not report results to or through the DER or another service agent (*e.g.*, a C/TPA).

(b) You must fax, courier, mail, or electronically transmit a legible image or copy of the fully-completed Copy 1 of the CCF, which has been signed by the certifying scientist.

(c) You must transmit the laboratory result to the MRO immediately, preferably on the same day or next business day as the result is signed and released.

§ 40.187 What does the MRO do with split specimen laboratory results?

As an MRO, you must take the following actions when a laboratory reports the following results of split specimen tests:

(a) *Reconfirmed.* (1) In the case of a reconfirmed positive test for a drug or drug metabolite, report the reconfirmation to the DER and the employee.

(2) In the case of a reconfirmed adulterated or substituted result, report to the DER and the employee that the specimen was adulterated or substituted, either of which constitutes a refusal to test. Therefore, ''refusal to test'' is the final result.

(b) *Failed to Reconfirm: Drug(s)/Drug Metabolite(s) Not Detected.* (1) Report to the DER and the employee that both tests must be cancelled.

(2) Using the format in Appendix D to this part, inform ODAPC of the failure to reconfirm.

(c) *Failed to Reconfirm: Adulteration or Substitution (as appropriate) Criteria Not Met.* (1) Report to the DER and the employee that both tests must be cancelled.

(2) Using the format in Appendix D to this part, inform ODAPC of the failure to reconfirm.

(d) *Failed to Reconfirm: Specimen not Available for Testing.* (1) Report to the DER and the employee that both tests must be cancelled and the reason for cancellation.

(2) Direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.

(3) Using the format in Appendix D to this part, notify ODAPC of the failure to reconfirm.

(e) *Failed to Reconfirm: Specimen Results Invalid.* (1) Report to the DER and the employee that both tests must be cancelled and the reason for cancellation.

(2) Direct the DER to ensure the immediate collection of another specimen from the employee under direct observation, with no notice given to the employee of this collection requirement until immediately before the collection.

(3) Using the format in Appendix D to this part, notify ODAPC of the failure to reconfirm.

(f) *Failed to Reconfirm: Split Specimen Adulterated.* (1) Contact the employee

and inform the employee that the laboratory has determined that his or her split specimen is adulterated.

(2) Follow the procedures of § 40.145 to determine if there is a legitimate medical explanation for the laboratory finding of adulteration.

(3) If you determine that there is a legitimate medical explanation for the adulterated test result, report to the DER and the employee that the test is cancelled. Using the format in Appendix D to this part, notify ODAPC of the result.

(4) If you determine that there is not a legitimate medical explanation for the adulterated test result, take the following steps:

(i) Report the test to the DER and the employee as a verified refusal to test. Inform the employee that he or she has 72 hours to request a test of the primary specimen to determine if the adulterant found in the split specimen also is present in the primary specimen.

(ii) Except that the request is for a test of the primary specimen and is being made to the laboratory that tested the primary specimen, follow the procedures of §§ 40.153, 40.171, 40.173, 40.179, and 40.185.

(iii) As the laboratory that tests the primary specimen to reconfirm the presence of the adulterant found in the split specimen, report your result to the MRO on a photocopy (faxed, mailed, scanned, couriered) of Copy 1 of the CCF .

(iv) If the test of the primary specimen reconfirms the adulteration finding of the split specimen, as the MRO you must report the test result as a refusal as provided in § 40.187(a)(2).

(v) If the test of the primary specimen fails to reconfirm the adulteration finding of the split specimen, as the MRO you cancel the test. Follow the procedures of paragraph (e) of this section in this situation.

(g) Enter your name, sign and date (Step 7) of Copy 2 of the CCF.

(h) Send a legible copy of Copy 2 of the CCF (or a signed and dated letter, see § 40.163) to the employer and keep a copy for your records. Transmit the document as provided in § 40.167.

[65 FR 79526, Dec. 19, 2000, as amended at 66 FR 41953, Aug. 9, 2001]

§ 40.189 Where is other information concerning split specimens found in this regulation?

You can find more information concerning split specimens in several sections of this part:

§ 40.3—Definition.
§ 40.65—Quantity of split specimen.
§ 40.67—Directly observed test when split specimen is unavailable.
§§ 40.71–40.73—Collection process for split specimens.
§ 40.83—Laboratory accessioning of split specimens.
§ 40.99—Laboratory retention of split specimens.
§ 40.103—Blind split specimens.
§ 40.153—MRO notice to employees on tests of split specimen.
§§ 40.193 and 40.201—MRO actions on insufficient or unavailable split specimens.
Appendix D to Part 40—Report format for split specimen failure to reconfirm.

Subpart I—Problems in Drug Tests

§ 40.191 What is a refusal to take a DOT drug test, and what are the consequences?

(a) As an employee, you have refused to take a drug test if you:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer, consistent with applicable DOT agency regulations, after being directed to do so by the employer. This includes the failure of an employee (including an owner-operator) to appear for a test when called by a C/TPA (see § 40.61(a));

(2) *Fail to remain at the testing site until the testing process is complete; Provided*, That an employee who leaves the testing site before the testing process commences (see § 40.63 (c)) for a pre-employment test is not deemed to have refused to test;

(3) Fail to provide a urine specimen for any drug test required by this part or DOT agency regulations; *Provided*, That an employee who does not provide a urine specimen because he or she has left the testing site before the testing process commences (see § 40.63 (c)) for a pre-employment test is not deemed to have refused to test;

(4) In the case of a directly observed or monitored collection in a drug test,